

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

MICHAEL D. TURNER,)	CASE NO. 1:16 CV 2185
Petitioner,)	JUDGE CHRISTOPHER A. BOYKO
v.)	
MICHELLE TURNER,)	<u>MEMORANDUM OF OPINION</u>
Respondent.)	<u>AND ORDER</u>

On August 31, 2016, Petitioner Michael D. Turner filed this *in forma pauperis* habeas corpus action under 28 U.S.C. § 2254. Turner was convicted in the Cuyahoga County Court of Common Pleas, pursuant to a Guilty Plea, on multiple counts of Aggravated Robbery, Kidnapping, Aggravated Burglary, Gross Sexual Imposition, Robbery, Attempted Murder, Rape, Felonious Assault, Receiving Stolen Property and Escape. He raises one ground for relief, apparently challenging the consecutive sentences of up to 59 years imposed on him.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, a petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

It is evident on the face of the Petition that Turner has yet to appeal his convictions, an avenue still available to him under Ohio Appellate Rule 5. Moreover, the Petition reflects he has a postjudgment motion pending in the trial court. Thus, regardless of the potential merits of his claim, on which this Court expresses no opinion, this action must be dismissed for failure to

exhaust state court remedies.

Accordingly, the request to proceed *in forma pauperis* is granted, and this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability, Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

s/ Christopher A. Boyko

CHRISTOPHER A. BOYKO

UNITED STATES DISTRICT JUDGE

DATED: November 4, 2016